

Quid Novi



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KEEPING AN EYE ON MOSCOW

BY BRIAN SHILLER, LL.B.
IV

A SPECTRE IS HAUNTING EUROPE - THE SPECTRE OF DEMOCRACY

When I began writing this column in September 1989, a great deal of change

had taken place in the Soviet Union. Since then, however, the pace of change has been truly remarkable as Mikhail Gorbachev's policy of *glasnost* has encouraged the voices of the oppressed throughout the communist world.

In Czechoslovakia, last November brought a peaceful transition from communism to parliamentary democracy and the new leader, playwright and former dissident Vaclav Havel, has scheduled elections for June of this year.

East Germans voted to hasten the pace of unification with West Germany as they recently elected a coalition government

headed by the Christian Democratic Party. The Christian Democrats favour immediate unification with West Germany. Over ninety percent of eligible voters exercised their newly found democratic right in the March 18th elections. It was the East German Communist government's decision to allow freedom of movement to the West that led to the tearing down of the Berlin wall, the call for unification and the symbolic dissolution of the Soviet bloc.

Poland was the first Eastern European Country to reject communism when
cont'd p.6

Elections: The Polls are Still Open

by/par Anthony Fata, Nat'l IV

J'ai lu avec intérêt l'article écrit par Brian Fell, qui a paru dans le *Quid Novi* de la semaine dernière. Je tiens à vous informer que les opinions exprimés dans cet article sont les miennes et ne représentent pas nécessairement celles de l'AÉD. J'ai des commentaires sur les points soulevés par Brian.

With respect to nominations and the issue raised by Brian that once a prominent student declares his or her intention to run for a position, others hesitate to challenge, I disagree. I would like to point out that six of the seven executive

positions were contested in this year's election. Candidates such as Marie Lussier, André Beaulieu, Bram Freedman and Robert Fabes may be considered to be prominent but despite this, other students chose to run against these four. Furthermore, one can argue that if a candidate runs unopposed, it is perhaps because a majority of potential candidates consider him or her to be the best candidate for the job.

As for the suggestion that acclamations for important positions in the LSA should not be permitted, I have two comments. The first is that every position on the LSA is important albeit for different reasons. Secondly, not permitting acclamations or having a "none
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ANNOUNCEMENTS

Hey You! - Are you interested in social events? If you are on the Social Committee or want to join up ... we need you for next year! N'hésitez-pas, tous et toutes! Sign up now on the LSA board, or grab me, the Social Coordinator, Julie Godin.

LSA/AED Election - Voici une évaluation empirique de notre 2ième élection pour le poste de vice-président aux affaires externes.

Global participation: 50% (20% less than for 1st elections; tut, tut.)

Participation par année: I - 37%, II - 62%, III - 54%, IV - 42%.

Participation des classes de BCL I & II aux deux élections:

1ière élection - BCL I : 80%, BCL II : 71%

2ième élection - BCL I : 40%, BCL II : 60%.

Evaluation: What conclusions can we draw? Probably few. Can anyone who studied statistics help me out?! Global participation dropped 20%; I guess we just lost interest. BCL I participation dropped 20%; the average. BCL II participation dropped 11%, much less. Maybe next year I'll be able to do a more complete study and make some real conclusions. Brian Fell.

Summer Jobs / Emplois d'été - The third edition of the Canadian Guide to Uniform Legal Citation (Cite Guide) is tentatively scheduled for publication in the fall of 1992. In preparation, the McGill Law Journal is planning to conduct research over the course of the next eighteen months on the cite guide.

Deux postes de recherche seront disponibles cet été, de mai à août.

Position I Project Coordinator / Researcher
Starting date of 14 May 1990 (flexible) with a salary of \$8.00 - \$10.00/hour, 37 1/2 hour week. This person will be responsible for two main tasks:

(A) Coordination of summer research and administrative duties:

- (i) supervise summer research;
- (ii) make efforts to acquire funding for further research during the school year;
- (iii) continue solicitation of comments from various sources;
- (iv) correspond with legal writing programs, journals, reporters, courts and others to encourage their official adoption and use of the Guide;
- (v) develop and maintain a Guide user list;
- (vi) organize Guide filing system;
- (vii) investigate possibility of in-house publishing;
- (viii) investigate the "cite check disk", and
- (ix) organize meeting of advisory board.

(B) Conducting research for an expanded guide,

including the following:

- (i) updating Revised Statutes of Canada
 - (ii) including decisions of Government Tribunals, i.e. Competition Tribunal, Energy Board;
 - (iii) developing computer databank materials, microfiche, microfilm;
 - (iv) expanding government documents;
 - (v) updating provincial and federal regulations;
 - (vi) conducting initial research into American, Commonwealth and Francophonie citation:
- [Les conditions d'emploi sont disponibles en français; voir à ce sujet Tim Egan ou Julia Hanigsberg].

Poste II Rechercheur

Le travail débute le 22 mai 1990 à un salaire de \$7.00-\$9.00/heure basé sur une semaine de 37.5 heures.

Cette personne sera chargée d'effectuer des recherches, particulièrement sur les éléments suivants de la référence juridique internationale:

1. Documents des Nations Unies.
2. Autres organismes internationaux tels la C.E., l'O.C.D.E. et l'O.E.A.
3. Tribunaux internationaux tels que le G.A.T.T. et autres tribunaux multilatéraux et bilatéraux.
4. Pays moins industrialisés tant dans les juridictions de Common Law que de droit civil.
5. Organismes non-gouvernementaux tels que Amnistie Internationale et Greenpeace.
6. Recueils d'arrêts et périodiques publiés hors de l'Amérique du Nord.

Les critères de base pour les 2 postes comprennent:

- i. Compétence acquise dans la recherche;
- ii. Connaissance du français et de l'anglais; langue parlée et écrite;
- iii. Connaissance du langage informatique.

Une préférence sera accordée aux candidates et candidats qui ont de l'expérience dans le domaine de l'édition et de la publication et qui expriment l'intérêt de se joindre au comité de rédaction de la Revue dans les années scolaires à venir.

S.v.p. faire parvenir votre lettre d'intention et votre curriculum vitae **avant 12:00, le 6 avril 1990**, au bureau de la Revue de droit (2e étage de la faculté) à l'attention de la rédactrice en chef.

[Job description available in English from Tim Egan or Julia Hanigsberg]

Thank you too - Silly me, there is one more person who rendered an invaluable service to the Law & Lawyers in the Twenty-first Century Conference, and I forgot to thank her. She is Irene Wolfe, the co-moderator of the panel discussion on Women in

Law. Please accept my sincerest apologies, Irene, and many thanks for your contribution. Colin Chang.

Forum National - The new Forum National Executive, which was elected on March 21st, is as follows:

President: Warren Cooney, BCL I
Vice President: Stephen Lloyd, BCL I
Treasurer: Mark Steinberg, BCL I
Secretary: Carmen Fernandez, BCL I

Congratulations! Jim Hughes, outgoing FN prez.

Also, there will be an important meeting for all interested students. Cette réunion aura lieu Mercredi le 4 avril à 12:00 dans la salle 203. Come with ideas for next year's programme.

International Law Association - The International Law Association will be holding its annual elections on Wednesday, April 4 at noon in room 101. Au maximum 8 étudiants seront élus sur l'exécutif pour 1990-91. Interested students are encouraged to run. Seuls les étudiants qui seront à la réunion auront le droit de voter.

Post Partem - BCL I & II and LLB I would like to thank those who attended the party Thursday for making it a success. We also would like to thank you for donating \$240.00 to the Cancer Society, in memory of Veronica O'Kane.

Grades by telephone - Please note that examination results for the Winter term will be posted in the LSA Study area room. As well, a binder containing the results will be at the desk in SAO.

All full-time returning (non-graduating) students will be able to check their winter terms grades by telephone commencing Monday, May 28. Instructions will be included with the Early Registration material.

Students can pick up a Personal Identification Number (PIN) necessary for obtaining grades by telephone together with Early Registration material. This will be available at SAO towards the end of April. The PIN will NOT be mailed to students. Further information may be picked up at SAO.

Judicial Board - Spring is around the corner and it's time to do the inevitable planning for next year at McGill. Students' Society is looking for qualified enthusiastic people to fill positions.

Le comité judiciaire de SSMU doit être composé de 5 étudiants en droit de troisième ou quatrième année.
cont'd p.10

L'opéra Nelligan - La musique, un frein à l'émotion

par Isabelle Godin, BCL II

L'opéra romantique *Nelligan* présenté à la salle Maisonneuve de la Place des Arts jusqu'à la fin de mars regroupe tous les ingrédients pour attirer la curiosité des amateurs de nouveauté sur la scène artistique. On assiste à la création d'un premier opéra romantique qui surprend d'abord par sa forme; le livret est interprété par des chanteurs populaires, et l'oeuvre musicale est rendue par une instrumentation moderne, composée entre autres de synthétiseurs, qui vient contraster avec l'orchestre symphonique traditionnel. Le sujet de l'opéra est très prometteur. La vie d'un poète adolescent dont l'oeuvre reflète avant tout l'explosion d'un talent qui n'a jamais pu atteindre sa pleine maturité; dès l'âge de

19 ans, Nelligan, soupçonné de folie, est interné. Le nouveau trio André Gagnon, Michel Tremblay et André Brassard suscite aussi la curiosité. L'entreprise semble partir gagnante avec des noms déjà reconnus sur la scène théâtrale comme Tremblay à la rédaction du livret et Brassard à la mise en scène. La présence d'André Gagnon est moins inusitée, vu l'intérêt marqué qu'il a toujours prêté à Nelligan; il a d'ailleurs déjà mis en musique certains poèmes de Nelligan, à la fin des années soixante-dix. Ainsi, toutes les attentes sont permises face à la création de ce premier opéra romantique.

Cependant, avant d'assister à la représentation de cet opéra, j'avais déjà certaines réserves à l'égard de la musique. De fait, autant la mise en scène

et la performance des chanteurs m'ont séduites, autant l'oeuvre musicale d'André Gagnon m'a déçue; inexpressive, elle s'impose comme une musique de fonds répétitive, toujours structurée de façon semblable avec la même montée dramatique, les mêmes pianissimos. Pourtant, la vie de Nelligan est ponctuée d'événements forts, que ce soit l'angoisse et la joie dans la création de l'oeuvre poétique, la scission familiale entre un père anglophone rabrouhant sévèrement la vie de bohème que mène Nelligan, et une mère francophone déchirée entre l'amour de son fils et la crainte que lui inspire les tournures scandaleuses de sa poésie, et surtout le sort dramatique du poète, interné à 19 ans.

La musique d'André Gagnon laisse

suite à la p.10

Nelligan

by James Hughes, BCL II

Michel Tremblay and André Gagnon's "Opéra" *Nelligan* about the tragic youth of Quebec poet Emile Nelligan, must be called a rhapsody of power and politics. Set in late 19th century Montreal, this bilingual musical depicts the battle for the heart of young Emile. With an anglophone father wishing to give Ireland another son and a francophone Quebecoise mother wanting only happiness for her child, Emile is torn to pieces by his mixed heritage. The play is seen through the eyes of Emile in his later years as he reflects upon the turbulent, chaotic period that led to his institutionalization.

Tremblay allows his younger Emile to encounter the older Emile and the result is a surprisingly successful moment of timeless wonder and confusion, one each

of us has encountered in the form of "If I had known then what I know now."

The choices Emile makes in renouncing his Irish past in favour of his Quebecois roots in becoming a poet in spite of his father's scorn and in publishing works inflammatory to the church are the choices of an artist seeking purity, simplicity and power. This search is echoed by the emphasis on vibrant, soul searching solos, many of which, particularly by young Emile, played by Yves Soutière, are awesome and memorable.

The politics of the opera are, at the same time, unabashedly nationalistic and quietly inquisitive. On the one hand, the schizophrenia caused by the cohabitation of both English and French in one body and mind is obvious, almost paternalistic, symbolism of the ongoing linguistic tension in Quebec and its

possible consequences should the two forces remain as one. When Emile states that his father should speak to him in French in his room (Quebec), his father replies that English will be spoken in his house (Canada). The two resident under the same roof is the source of the poison. It can only be expunged by a separation. And this may bring peace and purity to the land.

These overt representations of our political struggles, though perhaps also representative of accurate historical fact, may be contrasted with some of the subtler brooding beneath the opera own theme. For example, Emile's institutionalization is supported by his allies: his mother, his sister, his best friend and his mentor. Is the author suggesting that French Quebec cannot stand up to the might of the anglophone community or that Quebec's destiny, as

cont'd p.10

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Coin des SPORTS Corner

by Jordan Waxman, Sports Coordinator

During a week dominated by tremendous NCAA "Road to Final Four" action, the law athletes saw but limited Intramural action. Meanwhile, in the B-ball pool, Willie M. and M. Wolfe stand to win a fair bit of pocket change.

Volleyball's Space Cadets made a valiant stand in second-round playoff action, before falling at the hands (and spikes) of a superior squad.

In ball hockey - a stalwart tradition at the faculty, especially since McGill has won two Law Games trophies in the past three years - both Screef and the Leafs advanced to the quarter finals.

Screef are the faculty's Cinderella team - hoping to upset a top seed à la Ball State. In a 8-3 win on Sunday dawn, the team overcame an aggregate hangover and enjoyed goals by Buzz and Gordo. at a subsequent team meeting, George A. was

assessed stiff beer fines for his conspicuous absence.

Meanwhile the Law Leafs once again steamrolled its opponents - this time 16-0 to advance. Team captain Steve M. netted four in the afternoon romp, while Steve L. bagged two and J.W. pocketed his first two goals of the season. Excellent D. by Randy M. and Howie M. helped limit shots on goal to a mere two while setting up the more than productive offence.

On a personal note, I have got a serious basketball Jones and find challenging play daily at the Currie Gym. Since the end of the varsity sports season, there is virtually unlimited court time. I urge all interested mojo's to show up. Pick-up games are officially on Friday from 1:00 p.m. but like I say, you can always find a game.

Spike deserved the Oscar. - Mars Backman.

Finding Common Ground

by LSR/AFCS

Two weeks ago LSA/AFCS presented an event entitled "The Israeli/Palestinian Peace Process: Missing Elements", with Mr Rachad Antonius as invited speaker. Some students said to us afterwards that they felt the talk had been one-sided and unfair. We owe those students an explanation.

We did not want to provoke or alienate those who hold views different from those of our speaker. We intended, first, to have an opportunity to discuss the Israeli/Palestinian conflict; second, to reveal the difficult situation of the Palestinians now living in the occupied territories; third, to address the broader question of the peace process with as much objectivity as possible.

We think we succeeded with respect to the first two points, yet not the third. Mr Antonius discussed the peace process from a Palestinian perspective. While we feel this is a valid way of looking at the situation, that it is necessary to peace itself, we also recognize that it is insufficient.

We intend to redouble our efforts to hold an event which will present both sides of the story. For some time we have been working to bring an Israeli and a Palestinian speaker to the Faculty to discuss the peace process. We invite all interested students, especially those dissatisfied with the Antonius talk, to contribute to the planning of such an event which, we hope, may help us all to find common ground.

Let's Get Depressed

by Darcy Edgar, LLB II

Exams are like going through a long, uncomfortable confinement. Writing exams in the spring is particularly poignant. While the earth is bursting into life, law students are virtual shut-ins, emerging only when the blue flags are already blooming on the lawn. There is no more melancholy time than spring for someone who is suffering. And suffer we do.

Julia Kristeva's new book, *Black Sun, Depression and Melancholia*, describes the speech behaviour of the depressed person. It may well closely resemble your writing style in countless ink-stained exam booklets past and yet to come: "Let us keep in mind the speech of the depressed - repetitious and monotonous. Faced with the impossibility of concatenating, they utter sentences that are interrupted, exhausted, come to a standstill. Even phrases they cannot formulate. A repetitive rhythm, a monotonous melody emerge and dominate the broken logical sequences, changing them into recurring, obsessive litanies. Finally, when that frugal musicality becomes exhausted in turn, or simply does not succeed in becoming established on account of the pressure of silence, the melancholy person appears to stop cognizing as well as uttering, sinking into the blankness of asymbolia or the excess of unorderable cognitive chaos." Sound familiar? I know I felt chills when I read that.

But what use is it being depressed? I mean, if "blankness of asymbolia" is our fate (whatever that is, but it seems to have a ring of the known to it ...), at least is there a benefit? With pleasure I read a review of a new collection of psychologist James Hillman's work, *Blue Fire, Selected Writings*, just out this spring. Hillman rejects the idea that neuroses are meant to be "cured", like

herpes or the common cold. Rather, he sees our neuroses and our depressions as a gateway to deeper understanding of the soul. Soul, he adds, "is imagination". Mr Hillman argues against the current self-help approach to psychology, complaining that "more personal energy is expended in manic defenses against, diversions from, and denials of [depression] than goes into other supposed psychopathological threats to society ... Yet in depression we enter the depths and in the depths find soul... The true revolution begins in the individual who can be true to his or her depression." Be this as it may, I myself, will be reaching for the twinkies. However, perhaps it does the soul good to know that in the state of depression (will you be wearing the same outfit eight days in a row, too?) one unlocks the "poetic basis of the mind".

After too many twinkies, or whatever, the student enters an exalted state of mind, most poetic, likely asymbolic, positively orbital. Suzanne K. Langer in *Mind: An Essay on Human Feeling*, describes this state quite accurately as "prescientific, a sort of intellectual gestation period", where one has "turbulent notions about things that seem to belong together, although in some unknown way...". This is the period in which one reaches for one's summary. Langer ascribes the lacunae in contemporary efforts to describe the mind's functioning to attempts to pave over the fact that at the root, there is always "something primitive, scientifically useless entity - soul, entelechy, metaphysical subject or vital essence - ready to slide into the vacant place and work havoc with the incipient science". How true, especially at two in the morning. The key, she says, to understanding, is perception, and behind perception, of course, is feeling.

How this translates into student experience is this: it's two in the

morning, you reach for the ninth twinkie (or licorice stick, box of smarties, etc), and burst out sobbing over your summary. Your mind is an entelechy soup. All reason has fled. On the other hand, you are full of feeling. Black feeling. Blue feeling. The feeling you should have stuck with Poly. Sci. or Dad's siding business. You are in Big Trouble. Welcome to exam time. Isn't it nice to know, however, that you have entered the portals of the soul? Is it cosy? Or what?

Ah, well, my dear colleagues, we are into the world of phenomenology and existential philosophy now. We are really firing on all eight cylinders. Don't despair, but reach for expert advice, say, Maurice Merleau-Ponty, in *The Primacy of Perception*. Twinkie in our face, tears in our eyes, we are faced with the perception we will never understand this summary as well as its long-gone author, in fact, we should have written our own ... weeks ago. Merleau-Ponty would comfort us (if he could, beyond the grave) with the sound notion that classical ideas of intellectual adequation fail to take into account that no thought ever detaches itself completely from a sustaining (perceptual) support, indeed, "even science learns to recognize a zone of the fundamental, peopled with dense, open, déchiré beings of which an exhaustive treatment is out of the question... that, in the end, we are never in a position to take stock of everything objectively or to think of progress in itself; and that the whole of human history is, in a certain sense, stationary. "What... *is it only that?*" , says he. In light of these learned dispositions on the nature of depression, the superior mind/soul to which it gives access, the futility of feelings, and the general existential *je ne sais quoi* of it all, what advice can I offer you, dear fellow sufferer? Don't worry, be happy? As Sophocles said, "Life is short but sweet". Have a twinkie.

Moscow...cont'd from p.1

Solidarity defeated the Polish Communist Party in June 1989 parliamentary elections. In February 1990, the Polish Communist Party dissolved and resurfaced with a new, non-communist platform calling for a market economy yet still hesitant to permit exclusive private ownership.

Hungary, historically the most reform-minded of the Eastern European countries (they have had a McDonald's since 1977) began the election of a new parliament which will exclude communists and include a coalition of reform-minded nationalist parties who favour an open market.

In Romania, where there has been no democratic tradition, democratic elections will be held on May 20. The leading party is the National Patriotic Front which came to power when the Ceausescu regime fell last December. The National Patriotic Front has been accused of denying equal access to the democratic process and opponents have called for postponement of the elections.

In Yugoslavia, the Government has proposed a new constitution which would end the Communist Party's monopoly on power. A great deal of tension between the various Yugoslav republics suggests irreconcilable differences at a time when self-determination is at issue throughout Eastern Europe.

Strong support for the Communist Party remains in Bulgaria and last November saw the removal of hard-liner Todor Zhivkov who was replaced by a reform-minded leadership. The Communist Party enjoys the support of 39 per cent of the population according to a recent poll and democratic elections are scheduled for July 1990.

Mongolians were slow to embrace *shinetchiel* (renewal). Last week, however, the Communist Party, which held power for 66 years, stated that

multiparty elections will take place within the year.

Albania is the most repressive country in Eastern Europe. Still led by staunch Stalinists, the prospect for change seems bleak in the near future as the wave of democratic reform has failed to penetrate the Albanian border.

While Gorbachev's call for reform has been embraced in most of Eastern Europe, the Chinese leadership has rejected it criticizing Gorbachev's policies as an abnegation of Marxism. It was in China that demands of reform first took place when mass student demonstrations called for democracy and the right to form opposition parties. The demonstrations were crushed with brutal force and the massacre of an untold number of students in Tiananmen square last summer. The voices of reform have been silenced. Moreover, the reaction of the international community was unimpressive and made clear the fact that strengthening of international organizations, especially the United Nations, is of paramount importance.

The focal point of the sweeping changes during the last year has been the Soviet Union. In a country that Winston Churchill once described as "a riddle wrapped in a mystery inside an enigma", the last year has been explosive as calls for independence, free elections and the end of economic stagnation have dominated headlines all over the world.

At the centre of the struggle sits Mikhail Gorbachev, *Time* Magazine's Man of the Decade who has presided over the policies of *perestroika* and *glasnost*. Gorbachev has learned during the first five years of his policy of 'new thinking' that the more freedom people have, the more they will demand. As a result, the Soviet leadership has been forced to guarantee the right to strike and, more significantly, is being forced to enhance the rule of law through the elimination of the Communist monopoly on power and the introduction of multiparty elections

at the federal level. Article 6 of the Soviet Constitution has been amended to eliminate any reference to the Communist's "leading role". Moreover, in the last few months, *glasnost* has culminated in the election of non-communists in Estonia, Latvia and Byelorussia and the newly formed Lithuanian government's declaration of outright independence.

In the past year, Ethnic tensions in the Armenia and Azerbaijan resulted in civil war, which along with the demand for independence in the Baltics, has put Gorbachev's reform policies to the test.

Critics claim that because the economy continues to falter and dissent in the various republics has intensified *perestroika* is a failure and should be replaced. Proponents of 'new thinking' insist that the reforms should become more radical so as to stimulate greater economic growth. At present, Gorbachev's policies continue as the Congress of People's Deputies has given Gorbachev even greater powers to implement his reforms. Sovietologists, however, insist that Gorbachev's task is impossible and his days as leader are numbered.

Whatever the future holds for Gorbachev and his policy of *perestroika* it is quite clear that Gorbachev has had a tremendous impact at home and internationally. At present, there is a great deal of turmoil in the Soviet Union. What the Soviets will do with the Baltics and the conflict between Armenia and Azerbaijan remains to be seen. One thing is certain, we have witnessed an extraordinary transformation to democracy and hope for a more peaceful world.

***Don't forget the
Grad Ball !!
For more info
contact the LSA***

Justice Delayed, Justice Denied

by Henry Mizrahi, B.C.L. III

Of all of the Western democratic countries, Canada had perhaps the most shameful record in its refusal to accept Jewish immigrants from 1933-1945. In the immediate post-war period, Canada, in conjunction with the British, made efforts to locate and prosecute war criminals. However, in 1948, Canada abruptly ceased all such efforts, in response to a diplomatic note sent July 13, 1948 by the British Commonwealth office to all of its members. The note urged a new policy on war criminal prosecutions: "...we are convinced that it is now necessary to dispose of the past as soon as possible."

For close to forty years, the Canadian government refused to re-open the issue of war criminal prosecutions. That is, until 1985, when Prime Minister Mulroney set up a Commission of Inquiry, to estimate the number of war criminals living in Canada, identify them

and to suggest appropriate means of redress. Jules Deschênes, former Chief Justice of the Quebec Superior Court, was chosen to head the Commission.

In response to the Deschênes Report, a set of war crimes amendments was added to section 7 of the *Criminal Code*, giving Canadian courts the jurisdiction to prosecute war criminals.

There are currently three men charged under the amendments. Imre Finta is accused of having kidnapped and confined 8,617 Jews in cattle cars, of threatening violence against them and of robbery. The cars were eventually sent to Auschwitz.

Michael Pawlowski is accused of having killed 490 Jews and Poles in Byelorussia. Stephen Reistetter, this past January, was charged with four counts of kidnapping over 3,000 Jews, who were then sent to death camps.

In a fourth case, the Crown is seeking to

denaturalize and then deport Jacob Luitjens who is alleged to have entered Canada fraudulently by concealing his war-time activities: his membership in the Dutch Nazi party and, his participation in the murders of both a Wehrmacht deserter and a Dutch resistance leader.

Despite the war crimes amendments and the initiation of domestic prosecutions, there remains a profound misunderstanding of the process and many questions which must be addressed.

Is it fair to prosecute forty years later?

In 1968, the U.N. General Assembly declared that there could be no statute of limitation for war crimes, crimes against humanity and genocide. Canada does not have a statute of limitation for murder. This is an issue which to its core is related to justice, not revenge, not discrimination against East Europeans or Germans but justice.

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Mañana

population larger than Canada's and a majority which is now Spanish speaking. In Vancouver high schools, 72 % of the students have English as a second language. In Quebec alone there must be 7 million francophones. The Inuit in the far north are making increasingly stronger demands for complete social use of their language. Enough statistics, the point is obvious: with a low birth rate, and immigration as the only population maintenance, the future demographics can only be more pluralistic. So Canada is officially bilingual. This is good; you can pay your taxes in French or English no matter where you live. What is good about this is that it realizes one of the fundamental values of our constitution, and of our country, that is, we will allow more than one language and culture to

exist in this federation. There are, however, more than 3000 languages currently spoken on this planet. A lot of people are coming to Canada who do not speak either French or English and they would like to pay their taxes. This presents a new challenge to the tired old value of cultural tolerance.

For me, there is only one realistic solution. The country must begin to provide services in the language of the local community. Chinatowns are private sector examples of this concept. Of course, this would require total decentralization of the administrative services of government. Once again, private enterprise is ahead on this: the Bank of Montreal tellers speak

cont'd p.8

by Jay Spare, LL.B. III

Two decades ago a younger Pierre, then only fifty, had a great vision. Sir John wanted a railway from sea to sea and Pierre wanted to serve dinner in French and English. Fair enough, it was a good idea, so we worked hard to make it a reality. Now, however, as the true racist Canadian heart begins to show we wonder about Pierre's vision. In my humble and rabid opinion, the vision is flawed, not because it is pushing the bigots too far, but because it does not go far enough.

Looking at the future of this continent I see a multilingual, super-pluralistic society. The state of California has a

Elections...cont'd from p.1

of the above" category is tantamount to forcing someone to run for a position. As a voter, I would much rather have a reputedly weak but willing candidate rather than a reluctant but allegedly good candidate. If a candidate is acclaimed, this is the collective responsibility of the members of the student body. Neither the system nor the candidate need answer for the apathy, disinterest or confidence of the student body.

Quant à la campagne, je tiens à mentionner que même s'il a été dit que l'AÉD n'a pas fait sa part pour promouvoir ses propres élections, 70% des étudiants ont exercé leur droit de vote et cela sans aucun prix offert aux voteurs comme à Concordia. De plus, il y a eu une augmentation de 10% sur l'année dernière quant au vote populaire. Je serais intéressé de savoir combien d'étudiants n'étaient pas au courant du fait qu'il y avait des élections de l'AÉD. La quantité de discours, de posters, de prospectus, m'amène à croire qu'il était presque impensable de ne pas remarquer qu'il y avait une élection ce jour-là. De plus, le jour même des élections, il y a eu plusieurs annonces dans plusieurs cours en plus des discours des candidats dans les jours précédents. La suggestion que l'AÉD s'organise avec le Quid pour fournir un forum aux candidats est excellente et je vais la transmettre à mon successeur.

Brian se plaint à la fois des prospectus et du fait qu'il y ait un désavantage inhérent pour l'étudiant moins connu. Il me semble que les posters et les prospectus permettent à un étudiant moins connu de se faire connaître.

Brian a entièrement raison pour ce qui est des problèmes du forum des candidats dans le Moot Court. Malheureusement, l'heure a été changée à cause de la nécessité de convoquer une assemblée générale pour discuter de la question de la grève étudiante. Par ce fait, le forum a été remis à 13h00. Le mardi, veille du forum, l'exécutif a décidé d'annuler l'assemblée

générale car la question de grève n'était plus urgente à cause de la décision de la FEEQ, la fédération étudiante dont McGill fait partie, d'abandonner la coalition avec l'ANEEQ, et donc la grève. De plus, à cause de la conférence du professeur Postema, le Moot Court n'était pas disponible avant 13h00. Pour tous ces motifs, le forum a été reporté à 13h00.

Brian was quite concerned about the actual voting procedures. A polling booth is a good idea except for the fact that most students vote during rush periods, i.e. between classes, and the prospect of having to wait in line to vote for any extended period of time would likely discourage voting. Furthermore, nothing prevents a student from taking her ballot, and depositing it in the ballot box at a later time. On the point that representatives of opposing candidates should be present at the polling station throughout the day, there is nothing to prevent candidates from doing this. However, realistically, considering that there were 27 candidates this year, this would be an impossible task.

Brian was also concerned by the fact that one of the two ballot boxes was out of sight for some hours during the election. This box was sealed and placed in a locked room to which only the CRO, Neil Rabinovitch and myself had access. If there is a suspicion of improprieties about the voting process, then these should be put forward. Great care is exercised in selecting returning officers to ensure that any problems are avoided. The loss of the voting list was unfortunate and steps will be taken in the future to avoid this. Brian's study in the absence of the list was very admirable and appreciated.

Another comment made was that first year students faced a built-in disadvantage and that there is also a process of ladder-climbing in the system that resists newcomers. I strongly disagree with the latter part. Over my four years in the faculty, the four LSA Executives have been made up of a least

eight or more second year students (and thus elected while in first year) out of a possible 32 positions available. That corresponds to their proportion in the faculty, about 25%. Il est à noter que la plupart des élections se disputent entre le changement (i.e. le nouveau) et l'expérience (la vieille garde). C'est ça la vie politique.

Ceci n'est pas une attaque personnelle contre Brian Fell. J'ai eu le plaisir de travailler avec lui cette année et il est malheureux que les membres du Conseil de l'année prochaine n'aient pas le plaisir et les bénéfices d'avoir Brian parmi eux.

I am very pleased to see that Brian has taken the time and the initiative to evaluate our election procedure. I wish more students would take the time to concern themselves with such matters. I merely felt it appropriate to address some of the concerns raised by Brian. I am certain that I speak for the LSA when I say that such efforts are both appreciated and needed to ensure the best possible system. I encourage anyone with any comments, questions or suggestions about election procedures or any matter, to bring these up with myself or any other member of the LSA Council.

Manana...cont'd from p.7

Portuguese in my neighbourhood. If private enterprise can ensure people their linguistic rights then surely the government could make an effort.

It took 100 years for the federal government to come to terms with our linguistic duality — and it was quite explicit in the Constitution. Perhaps the Feds and other political bodies might try to adjust to the new reality more quickly this time. Because, despite groups like A.P.E.C., English America or Quebec Français, our children will not live in either a unilingual or a bilingual society. We, the majorities, French and English, will not enjoy our present dominance forever. What Pierre started needs now to be continued.

Mooting at McGill

by **Andrew Lister, LLB II**
Marie-Claude Goulet, BCL II
Jean-Paul Poitras, LLB II
Christian Immer, BCL III

Ever wondered what those haggard and forlorn looking creatures on the 6th floor of the library were doing up there? (besides hoarding all the books and making a bloody racket!) They were mooting. This rewarding academic pursuit is open to all upper year students wishing to improve pleading and research skills.

Competitive mooting is alive and well at McGill as can be seen by the results of this year's Mignault, Laskin and Jessup teams. Mooting points of droit civil, administrative (Charter) and public international law respectively, McGill placed respectably in all three competitions.

Jessup

The Canadian Jessup Moot was held at Osgoode Hall Law school in Toronto on February 23-24. The problem involved a delightful mixture of Law and the Sea and Environmental Law in the pristine (but legally confused) waters surrounding Antarctica. McGill's team was composed of Michael Byers (LLB II), Sean Gaudet (LLB II), Pierre Larouche (Natl IV) and Andrew Lister (LLB II). The McGill team placed third (of 21 teams) in overall points (written and oral pleadings points combined), presented the fourth best memorial, and had two oralists ranked in the top dozen of some 82 oralists (Sean at 8th and Pierre at 12th).

Canada will be represented at the World's Jessup finals in Washington this year by the Universities of Toronto and

Calgary. We wish them the best of luck in the hope that one of them will repeat the University of British Columbia's feat of last year and win the World's Jessup title for Canada.

The Jessupers would like to thank all the staff and students who helped them prepare and plead their memorial. Special recognition is due to Professors Vlastic and Toope as well as Gary Bell for their guidance and support. (Sorry about all the noise in the Library, Garth!)

Laskin

The Laskiners (or les Laskinois), Colin Baxter (Natl IV), Christian Immer (BCL III), Michael Morris (LLB II) and Jean-Paul Poitras (LLB II) became intimately involved during the months of January and February with Crown Immunity and Public Interest Standing in the context of PCB incineration. Endless nights of factum debauchery and gruelling ego-stomping examination reminiscent of the inquisition culminated in a bus trip to Ottawa!

Dix-huit équipes ont participé à cette compétition bilingue de haut calibre. Le point de rencontre était le prestigieux Château Laurier. L'organisation a été sans faille; la bière coulait à flot.

The competition started off on the wrong foot, or rather no foot at all, as Michael tripped on the steps of the Palais de Justice spilling the contents of his briefcase on the first day! By Saturday evening the team had recovered and was in fine form as Christian made a "Chariots of Fire" inspired dash to receive the team's award for 3rd best factum.

L'équipe tient à remercier le doyen pour son soutien financier, les professeurs et étudiants qui ont bien voulu nous juger et

tout particulièrement notre entraîneur le professeur David Stevens. L'aventure fut mémorable et nous encourageons tout intéressé à y participer.

Mignault

Les 26 et 27 janvier derniers, à l'Université du Québec à Montréal, 5 équipes (Univ. d'Ottawa, de Montréal, Laval, UQAM et McGill), se sont affrontées lors du concours de Tribunal-École Pierre-Basile Mignault. Le problème posé portait sur la responsabilité civile et le droit de l'environnement. André Beaulieu (BCL II), Isabelle Courville (BCL II), Brigitte Roy (Natl IV) et Marie-Claude Goulet (BCL II) ont représenté McGill lors de cette compétition. Bien que notre équipe soit arrivée à 1 point de la finale, qu'elle se soit placée en 3ième place pour le meilleur plaideur (Isabelle), le meilleur mémoire et la meilleure équipe, aucun prix ne lui a été décerné! Les membres de l'équipe sont néanmoins heureux d'avoir vécu cette expérience et ont retiré beaucoup de leur travail d'équipe. Nous tenons à remercier tout spécialement le professeur Daniel Jutras, ainsi que Anthony Fata, professeur Jobin et le doyen pour leur aide. Nous souhaitons la meilleure des chances à l'équipe qui représentera McGill à McGill l'an prochain.

Rousseau

McGill participe également au concours de plaidoirie Rousseau cette année qui aura lieu à La Haye aux Pays-Bas à la mi-mai.

Lucie Comtois (BCL III), Michelle Cumyn (BCL II), Jean-Phillipe Gervais (BCL II) et Johanne Poirier (BCL III) représenteront McGill dans cette prestigieuse compétition de droit international public. Le problème cette

suite à la p.10

Announcements...cont'd from p.2

année. Congratulations to George Locke, BCL III and Ron H. Lauenstein, BCL III, who have already been appointed. Three positions remain open.

All those interested in Judicial Board positions should consult the LSA bulletin board. Pour plus de renseignements ou pour un formulaire d'application, vous n'avez qu'à vous adresser au bureau de SSMU qui se trouve au "Union" ou à Ray Satherwaite, vice-président des affaires internes de SSMU au 398-6799.

Quid Novi Elections - The *Quid Novi* is pleased to announce the editorial board for 1990-91:

Editor-in-Chief/Rédacteur en chef:	Jean-Philippe Gervais
Associate Editor/Rédacteur adjoint:	James Hughes
French Editor/Rédactrice française:	Hélène Gagnon
English Editor/Rédacteur anglais:	Michael Kleinman
Arts Editor/Rédacteur artistique:	Michael Wilhelmson
Special Issues Editors/ Rédactrices des Éditions spéciales:	Patricia Armstrong & Julie Godin
Conference Editors/Rédacteurs pour les conférences:	Valérie Héroux & Caspar Landolt

Thanks to returning officers Neil Rabinovitch, Julia Hanigsberg and George Locke.

McGill Legal Aid Clinic - The Directors would like to thank all volunteers for their participation, especially those who exhibited true commitment and took their responsibilities seriously. To assure a positive conclusion to our year, please show up for your shifts until the end. **LAST DAY OPEN FRIDAY APRIL 6, 1990.**

Social Report

par Vincent Lesage, Coordonnateur Social sortant

Beer on the floor, piles of old ties still knotted, briefcases in a corner next to 30 cases of empty beer bottles; yes, Borden & Elliot blew thru the faculty two weeks ago. The success of this type of "public relations" event is directly attributable to the price of the beer and the food. It was free. Too bad if you missed it.

Le dernier "Coffee House" aura lieu ce jeudi, au Common Room et vous êtes tous invités à venir vous amuser au son des Années 70, le thème choisi par Jim O'Brien et Brian Fell pour cette dernière petite fête. La Supervision sera assurée

Opéra...suite de la p.3

indifférent, et même dérange par moments; l'intensité qui peut se dégager de l'agencement harmonieux des voix, de la mise en scène et du jeu des éclairages, se voit soudain cassée par une musique sans couleur, qui souvent ne semble même pas coïncider avec l'émotion que peut nous transmettre la performance des chanteurs.

De fait, l'expressivité qui manque tant à la composition musicale se retrouve dans l'interprétation des chanteurs et dans la mise en scène d'André Brassard qui, dans toute sa sobriété fait preuve d'efficacité en visualisant une compréhension du texte.

Par exemple, le choix de Tremblay de ne pas faire perdre de vue au spectateur le destin tragique de Nelligan, entre autres en faisant dialoguer dans certaines scènes Emile vieux et Emile jeune, a été visualisé par l'emplacement d'un mur à l'arrière scène avec une série de portes et de fenêtres étroites illustrant l'internement de Nelligan. Ce décors s'impose au spectateur au début et à la fin de l'oeuvre, mais il prend son sens surtout à la fin où il nous fait ressentir cette terrible coupure entre les deux mondes, que ce soit entre la liberté et l'internement, ou entre l'expression du poète en Nelligan et "l'abîme du rêve".

Enfin, même si cet opéra romantique nous laisse un peu sur notre faim, il faut admettre que l'émotion passe dans la salle. Cependant, dès qu'il se dégage de la scène une émotion forte, la musique vient aussitôt la freiner, avec comme résultat pour le spectateur, une émotion vaguement ressentie sans jamais être toutefois véritablement ému.

par Julie Godin, qui en sera à son premier Coffee House. Bonne chance Julie, je sera toujours là pour t'aider.

Les Prix de participation, d'excellence sportive et de graduation seront remis à ce moment. Qui sait, vous serez peut-être parmi les heureux qui se sont distingués plus par vos prouesses à l'extérieur des cours, et par votre popularité! Soyez-y tous! Vince.

Nelligan...cont'd from p.3

evidenced through the actions of Emile's family, is to accept a state of confusion and conflict?

Further, the older Emile, played by Michel Comeau, at one point, tries to convince his younger self not to publish a poem that could bring the latter trouble. If Michel Tremblay is not advocating a thunderous, dramatic pronouncement of artistic (and political) faith, is he, therefore, supporting a careful and controlled approach to relations between the linguistic camps?

Whatever the underlying political intent of *Nelligan*, it is an unqualified musical success that is worthy of the cost of admission - our \$22.00 seats were good given a well-tuned Place des Arts sound system. [Tickets are also available at \$50]

Mooting...suite de la p.9

année a trait aux relations litigieuses entre un pays en voie de développement et la Banque du Commerce International (cousin imaginaire de la Banque Mondiale) causés par la dette extérieure du pays en question. Nous leur souhaitons bonne chance!

Mooting is a rewarding experience: the bonds of friendship that develop between teammates and staff members alone merit the hard work. This year McGill was unable to send a team to the Gale Cup, a prestigious Common Law moot due to lack of interest on the part of the students. By contrast, over 80 students at the University of Toronto tried out for 24 moot positions. A law school's reputation is based in part upon its successful performance in such inter-faculty competitions. This year's mooters encourage their fellow students to consider keeping McGill's fine moot tradition alive.

Sublets

Quiet, sunny 5 1/2 with two balconies, hardwood floors. 2nd floor of two storey house. Across the street from Vendome metro. Private entrance. Available May or June. Lease ends July 1. Renewable. Currently \$700 cold. Sublet for \$500. 489-1684, 7-10 p.m., ask for David.

Sublet. 3 1/2 on Summerhill at Guy metro. May-August. Quiet, convenient, fully furnished, clean, bright, beautiful, bugless, balcony, laundry. Rent negotiable. Call Darcy at 939-0860, leave message.

Shared accomodation. Gorgeous 7 1/2, great kitchen, sunny, spacious, hardwood floors, close to the Fairmount Bagel Factory. A steal at only \$225/month. Call Dale (a woman) at 274-0007.

Well furnished 1 bedroom apartment. Great downtown location: on Durocher between Sherbrooke & Milton. Very sunny, cool at night. Quiet. \$350, all included. Sublet for 4 months, May 1 to August 31. Call 845-8779.

3 1/2 Sublet: Stanley & Penfield: 30 seconds to law school! Newly furnished, heat, hot water & gas included. Hardwood floors, clean & quiet. Laundry in building. May to August 31. No option to renew. Phone 284-5474 after 6 p.m.

6 1/2 - Hutchison & Villeneuve (juste au nord de du Parc) - autobus du Parc - approx. \$350 ou \$200 si partagé - tout compris - à sous-louer et/ou partager - à partir du 15 mai ou le 1er juillet - pour l'été (et après si l'on veut) - tél. : 271-0758, Glenn, tôt le matin ou le soir.

Westmount sublet: 3 1/2 on Claremont below Sherbrooke. For May until end of August. Completely furnished, hardwood floors and very clean. Close to shopping, Vendome metro and 24 bus line. And cheap: only \$370. Call 485-

2649 anytime - leave a message.

Cozy, hardwood floor, 1 1/2. Corner Hutchison & Sherbrooke. Metro Place-des-Arts or 24 bus line. Rent \$300, fully furnished, not including gas. Laundromat across street. Sublet from May 5 - August 30. Call 284-5351 after 8 p.m.

1 1/2 apartment, \$365/month May to July. August FREE. Lincoln near Guy & Sherbrooke. Furnished, utilities included. 939-4326 after 6 p.m.

Female, looking for non-smoker to share fully renovated condo located at St-Christophe and René-Lévesque, only a 2 minute walk from the Berri-UQAM metro station. Fully furnished, huge kitchen, microwave, washer/dryer. Lease would be for early May to end of August. Asking \$250/month (excludes electricity). Please call Mary or David at 284-6522.

Big, Beautiful room to sublet in 5 1/2 for May thru August. Great location on Stanley between Sherbrooke and Dr. Penfield, near Peel metro. All is included: furniture, utilities... Only \$225/month. Call 281-8563.

Recherche personne calme et non-fumeuse pour partager ou sous-louer un grand 4 1/2 situé sur l'avenue Cedar, à côté de l'Hôpital Général de Montréal, du Mont-Royal, de l'intersection Côte-des-Neiges & à 15 minutes de marche de la faculté. Possibilité de renouveler en septembre. Prix à discuter. Contacter Hélène or Armitz après 17h00 au 939-5711.

Clean, bright 4 1/2. Top floor 3639 Ste-Famille between Prince-Arthur/Pine. Quiet, laundry, buzzer, heat. Available May 4. Option to renew. \$475. Call Jordan at 286-1086.

Large, bright, fully-furnished penthouse

apartment. Sundeck suitable for barbecues. Corner of Stanley and Dr. Penfield. Ideal for bachelor or couple. Available May 8 to Sept. 1. Laundry in building, airconditioned, heat, hot water included. Electricity, telephone extra. For more info call Fraser at 848-0636.

4 1/2 to share for the summer, option to renew. Côte-des-Neiges and Côte-Ste-Catherine near metro and #165 bus. Excellent shopping facilities. \$210/month, includes everything but phone. Available early May. Your room would not be furnished but the rest of the apartment is. Call André at 739-2093, in the evening.

Great location, 4 1/2 to sublet from May 1st with option to renew. On Coloniale between Pine & Prince-Arthur. Rent: \$525. Close to great shopping and great culture! Call Murray at 848-6189

Quotes of the Week

Prof. H.P. Glenn in NCP on March 26, on legal education in the USA:

"You go straight from law school to a crash course in bar school, then straight to \$80 000."

- and again on March 27 on the practical difference between fact pleading and discovery:

"Oh, about \$100 000 a case, eh?"

- and on discovery generally:

"Generations of lawyers will die. Firms can come and go. Discovery goes on forever."

Prof. Carol Bohmer in Family Law:

"People lie in bed in more ways than one."

Justice...cont'd from p.7

It is often asked why the government is consuming vast resources on the prosecution of men who are old, fail and law-abiding, for crimes that they committed forty years ago. The simple answer is that prosecution of these individuals has nothing to do with their respect for the law over the past forty years or even their faithful community work. It is related to the lawlessness and viciousness which they displayed during the war. The passage of time cannot reduce their culpability.

The Crown should not be faulted, nor should the accused be rewarded, simply because he was successful in eluding justice. By allowing suspected war criminals to live out their lives in Canada, free of prosecution, we are reducing the value of Canadian citizenship.

In short, this is an issue of justice delayed. Ignoring or forgetting the crimes would make this an issue of justice denied.

Is Canada creating a new crime retroactively?

There is vast and overwhelming evidence to show that war crimes and crimes against humanity were recognized internationally long before the Nuremberg trials.

The Hague Conventions of 1899 and 1907 dealt with the protection of civilian populations during times of war. The Treaty of Versailles provided a judicial solution to punish war criminals, in particular, the prosecution of kaiser Wilhelm II of Germany.

During the Second World War, numerous declarations were made by the Allied powers that war criminals were going to be punished. The Declaration of St. James, signed by representatives of all the exiled governments of occupied states and the Moscow declaration, signed by Messrs. Churchill, Stalin and Roosevelt, warned that the Allied powers

would undertake to prosecute all those Nazis who had committed atrocities against civilian populations.

The declaration, treaties and conventions, taken together, clearly indicate that war crimes and crimes against humanity were recognized as offences at international law and that they constituted general principles of law recognized by the community of nations, as of 1939. To suggest that war crimes and crimes against humanity were not recognized at international law during the war, is tantamount to saying that the orchestrated plan to systematically exterminate a whole race of people, was not a violation of law nor was it a crime as recognized by the international community.

How can the Canadian government legislate over crimes committed on foreign soil?

This prosecution of war crimes is based on the universality principle. This principle allows all states to punish certain offences, as the perpetrators are "common enemies of all mankind" and every state has an interest and moral obligation in their apprehension and punishment.

The *Criminal Code* contains several examples of provisions with extra-territorial effects: hijacking, attacks against internationally-protected persons, piracy and bigamy.

Section 11(g) of the *Charter* was enacted specifically to allow Parliament to pass enabling legislation, giving Canadian courts the jurisdiction to prosecute and punish war criminals, who committed their crimes on foreign territory.

Why is the defence of following a superior's order not available to war criminals?

The International Military Court at Nuremberg, emphasized that individuals have a responsibility at international law:

"Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced."

If this defence had been made available to accused war criminals at Nuremberg, each one could have availed himself of the defence. Given that the "arch-criminal" himself had committed suicide, no punishment would have been meted out for these most heinous of crimes.

Nearly forty years after Germany's defeat, Canada has finally found the political will to identify and prosecute war criminals residing here. Many have said that in the years following the war, it was easier for former Nazis to enter Canada than Jews. By enacting war crimes legislation, Canada is sending a message that it will no longer turn its back on the horrifying acts perpetrated against innocent civilian populations, nor will it become a safe haven for those who continue to commit such acts.

Time, however, is quickly running out. Age and infirmity have already taken their toll on many of the perpetrators and witnesses. Over the past 40 years, Canada has identified five war criminals, charged three of them, extradited one and is seeking the deportation of a fifth. Justice Deschênes identified and provided evidence to charge approximately 20 men. We as a so-called "just society" owe it to the dead, to the living victims and to our system of justice, to accelerate the pace of prosecutions. This means according more resources and personnel to the Department of Justice's War Crimes Division. for it must never be said that we, as a nation, stood by and let murderers die in the peace and dignity that they denied their victims.